

VZCZCXYZ0001
OO RUEHWEB

DE RUEHKT #2828/01 3501051
ZNR UUUUU ZZH
O 161051Z DEC 05
FM AMEMBASSY KATHMANDU
TO RUEHC/SECSTATE WASHDC IMMEDIATE 9547
INFO RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

UNCLAS KATHMANDU 002828

SIPDIS

SENSITIVE
SIPDIS

DEPT FOR SA/INS, EB/ESC/TFS
JUSTICE FOR OIA ADN AFMLS
TREASURY FOR FINCEN

E.O. 12958: N/A
TAGS: [EFIN](#) [KCRM](#) [KTFN](#) [PTER](#) [SNAR](#) [NP](#)
SUBJECT: 2005-2006 INCSR REPORT, FINANCIAL CRIMES AND MONEY
LAUNDERING

REF: KATHMANDU 210324

11. (SBU) This is Post's 2005-2006 International Narcotics
Control Strategy Report Part II, Financial Crimes and Money
Laundering, per reftel.

Begin Text.

Nepal

Nepal is not a regional financial center and there are no indications that Nepal is used as an international money laundering center. The Government of Nepal (GON) has not criminalized money laundering, and legislation on money laundering, mutual legal assistance and witness protection, developed as part of the GON's Master Plan for Drug Abuse Control, remained stalled in 2005. Since the dissolution of Parliament in May 2002, any new laws must be passed by royal ordinance, which must be renewed after six months. Draft anti-money laundering legislation has been prepared but has not yet been passed into law or ordinance. The Foreign Exchange Act of 1962 and the Bank and Financial Institutions Ordinance 2005, together, authorize prosecutions for money laundering. There were no prosecutions or arrests for money laundering during 2005.

Banks are required to record the identity of customers engaging in significant transactions. In particular, all transactions that involve payments in foreign currency require prior approval by the Nepal Rastra Bank (NRB), Nepal's central bank. Any Nepali citizen who wishes to open a foreign currency account must obtain a license to do so from the NRB, and Nepali citizens wishing to conduct foreign exchange transactions of any kind must obtain approval from the NRB by clearly outlining the purpose for the transaction. The NRB normally approves small transactions (in USD thousands) for travel, education and medical treatment. Travelers can take out USD 2000 a year from any commercial bank by showing travel documents such as passport, visa, and air ticket, without NRB approval. Individuals with an NRB approval letter can conduct a foreign exchange transaction at any NRB registered bank. In addition to NRB approval, students must obtain a recommendation letter from the Ministry of Education; the transactions approved can only be for the amount listed on the total expenses line of the student's U.S. visa paperwork. The NRB approves foreign exchanges for medical treatment based on the recommendation of the Nepal Medical Council, and there is no limit on the amount. The NRB approves foreign exchange for business travelers to cover their food, lodging, and transportation expenses. For business transactions, however, individuals

must open a letter of credit from an NRB registered commercial bank documenting all the transaction details. The commercial bank then forwards the letter of credit to the NRB for approval. There is no maximum or minimum limit on the amount for transactions in legal products and services.

Nepal has enacted bank secrecy laws that prevent the disclosure of client and ownership information to individuals and law enforcement authorities; however, the present law does not prevent the disclosure of client and ownership information to the NRB, courts, auditors or the Commission for Investigation of Abuse of Authority (CIAA). Banks have provided records regarding bank accounts of individuals and institutions to assist in GON investigations into corruption by senior officials. There are currently no free trade zones in Nepal. However, different industry sector associations have been urging the GON to set up an export processing zone near the Inland Container Depot (ICD) in Birgunj, which borders India.

The NRB has the authority to freeze accounts and seize assets related to criminal investigations. However, the GON's ability to identify and trace assets is hindered by the lack of a computerized information sharing system. For example, many bank branch offices do not have computers. The Nepal Police also have the authority to seize any goods or property related to criminal investigations. The Department of Revenue Investigation (DRI) under the Ministry of Finance functions as Nepal's financial intelligence unit (FIU). DRI is responsible for the control and investigation of any kind of revenue loss to the GON. It has the authority to make raids, seize assets, and arrest and prosecute individuals or institutions for causing any kind of revenue loss to the government, such as cash smuggling, underpaying customs duty, or tax evasion. The DRI can also investigate and prosecute

foreign exchange violations. Nepal Police, Immigration, and Customs, forward all cash smuggling cases to the DRI for prosecution. The CIAA and Royal Commission for Corruption Control (RCCC) refer cases of revenue loss or foreign exchange misappropriation to the DRI. The DRI makes the case and takes it to the district court. However, the DRI is not adequately staffed. Increased cooperation among the NRB, Nepal Police, and the DRI would enhance Nepal's money laundering and terrorist financing investigative and enforcement capabilities.

A hawala system of informal remittances (called the hundi system in Nepal) is still often used. Expatriate Nepali workers-the primary source of hundi transactions-are often employed in the Gulf, Malaysia, and other countries that have introduced new, more stringent regulations on informal remittance systems. Nepali workers in India still utilize hawala-hundi transactions. In Nepal, the hundi system is linked to issues of capital flight, tax avoidance, and corruption. The NRB has instituted an International Monetary Exchanges licensing policy within the past year, which requires financial organizations wanting to distribute foreign remittances to obtain an operating license.

Additionally, many of Nepal's commercial banks have opened offices in countries with large numbers of Nepali expatriate workers to facilitate remittances through the banking system. According to NRB officials, the combination of these factors has resulted in a decrease in the use of the hundi system in Nepal.

The Terrorist and Destructive Activities Act and the Bank and Financial Institutions Ordinance 2005, working in tandem, criminalize terrorist financing. The Bank and Financial Institutions Ordinance 2005 regulates the actions of financial institutions in Nepal and provides the NRB with the authority to seize any assets or freeze accounts deemed to have been used in terrorist activities. No assets belonging to individuals or entities on the UNSCR 1267 Sanctions Committee's consolidated list have been identified in Nepal. Additionally, Nepal's State Offense Act of 1989 authorizes security forces to arrest and prosecute any Nepalese or foreign citizen involved in any criminal activities against

the State or associated with foreign terrorist activity. The GON made no arrests for terrorist financing in 2005.

The GON is a party to the 1988 UN Drug Convention, the 1961 UN Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and the 1990 South Asian Association for Regional Cooperation (SAARC) Convention on Narcotics, Drugs, and Psychotropic Substances. It has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention Against Corruption. Nepal is not a signatory to the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Legislative action in Nepal has clearly been handicapped by the lack of a sitting Parliament.

End Text.
MORIARTY